

ESTTA Tracking number: **ESTTA416849**Filing date: **06/28/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following parties request to cancel indicated registration.

Petitioner Information

Name	Asia Las Vegas LLC		
Entity	Limited liability company	Citizenship	Delaware
Address	3355 Las Vegas Blvd. South Las Vegas, NV 89109 UNITED STATES		

Name	Buddha Entertainment LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	3355 Las Vegas Blvd South Las Vegas, NV 89109 UNITED STATES		

Attorney information	William Thomashower Schwartz & Thomashower LLP 15 Maiden Lane, Suite 705 New York, NY 10038-5120 UNITED STATES wthomashower@stllplaw.com Phone:212 2274300
----------------------	---

Registration Subject to Cancellation

Registration No	3967963	Registration date	05/24/2011
Registrant	LFP IP, LLC Suite 900 8484 Wilshire Boulevard Beverly Hills, CA 90211 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 2010/10/26 First Use In Commerce: 2010/10/26
All goods and services in the class are cancelled, namely: Adult entertainment services in the nature of adult nightclubs and cabarets

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
---------------------------------------	------	------------------	------

Registration Date	NONE
Word Mark	ALWAYS A HAPPY ENDING
Goods/Services	nightclub, restaurant, bar and entertainment services

Attachments	Petition for Cancellation with Exhibits and Proof of Service.pdf (23 pages) (413025 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/William Thomashower/
Name	William Thomashower
Date	06/28/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BUDDHA ENTERTAINMENT LLC,
ASIA LAS VEGAS LLC,

Petitioners,

– against –

LFP IP, LLC,

Respondent.

Cancellation No. _____

In the matter of:

Registration No. 3,967,963

Date of Issue: May 24, 2011

PETITION FOR CANCELLATION

Petitioner, BUDDHA ENTERTAINMENT LLC, and ASIA LAS VEGAS LLC, limited liability companies organized and existing under the laws of the State of Delaware, doing business at 3355 Las Vegas Blvd. South, Las Vegas, NV 89109, believe that they are and will be damaged by the Registration No. 3,967,963 for the mark ALWAYS A HAPPY ENDING issued to Registrant-Respondent LFP IP, LLC and hereby petition to cancel same.

As grounds of this Petition, it is alleged that:

1. Respondent's Registration No. 3,967,963 for the mark ALWAYS A HAPPY ENDING was obtained from an intent-to-use application filed August 10, 2010 in the name of Respondent, LFP IP, LLC (hereinafter "LFP" or "Respondent"), as the applicant and now owner of said registration. LFP's address of record is 8484 Wilshire Boulevard, Suite 900, Beverly Hills, CA 90211 and the club where its trademark is used is located at 6007 Dean Martin Drive, Las Vegas, Nevada 89118, less than 4 miles from Petitioners' TAO LAS VEGAS nightclub and restaurant. Respondent's Registration for the mark ALWAYS A HAPPY ENDING was registered on May 24, 2011 on the

Principal Register, in class 041 for “adult entertainment services in the nature of adult nightclubs and cabarets;” claiming first use and first use in commerce on October 26, 2010.

2. Petitioner BUDDHA ENTERTAINMENT LLC (“Buddha”) is engaged in the ownership and operation of the nationally and internationally famous TAO® Nightclub which is affiliated with the TAO® ASIAN BISTRO restaurant and TAO BEACH Club (collectively “TAO LAS VEGAS”), all located in the renowned Venetian Casino Hotel and Resort in Las Vegas, Nevada. TAO® ASIAN BISTRO and the TAO® Nightclub opened in 2005 and operate under the same TAO® trademark as the famous New York restaurant, TAO® ASIAN BISTRO, which opened in New York City in 2000.

3. Petitioner ASIA LAS VEGAS LLC (“ASIA LV”) is engaged in the ownership and operation of the nationally and internationally famous TAO® ASIAN BISTRO restaurant which is affiliated with the TAO® Nightclub and TAO BEACH Club, all located in the renowned Venetian Casino Hotel and Resort.

4. Since opening in 2005, Petitioners’ TAO LAS VEGAS has become famous for providing customers with a chic, high quality and award-winning nightclub, entertainment, and restaurant experience, with uniquely designed decors, outstanding talent, entertainment, and service. As a result, TAO LAS VEGAS attracts a patronage that often includes celebrities, professional athletes, and business and political leaders, in addition to local residents and guests from all over the United States and from foreign countries.

5. Since at least as early as November 7, 2006, long prior to Respondent’s filing of its intent-to-use application in 2010, and long prior to Respondent’s claimed date

of first use of October 26, 2010, Buddha and ASIA LV adopted and have continuously used the unregistered service mark ALWAYS A HAPPY ENDING in interstate commerce in connection with the TAO® Nightclub and restaurant in Las Vegas, Nevada. When TAO BEACH Club opened, Petitioners' mark was also used in joint advertising including TAO BEACH Club.

6. The mark ALWAYS A HAPPY ENDING was chosen by Petitioners as an arbitrary or suggestive mark to designate the source of origin of Petitioners' upscale and high quality dining, nightclub and entertainment services at TAO LAS VEGAS. The term HAPPY ENDING is defined as the outcome "of the plot of a work of fiction" where the result is "best for the hero or heroine." (*See, e.g.,* http://en.wikipedia.org/wiki/Happy_ending). The combined words "ALWAYS A HAPPY ENDING" imply a work of fiction in which the protagonist *always* wins. Since nightclubs and restaurants are reality, not fiction, and real events cannot be controlled as in a scripted, fictional story, Petitioners' trademark is arbitrary as applied to nightclub services. Alternatively, the mark is suggestive and requires imagination of an intended dining and nightclub experience, even if the outcome of a real event is subjective and less certain than a scripted work of fiction.

7. Petitioners' mark ALWAYS A HAPPY ENDING has been widely featured in advertising, on billboards, posters and on the Internet as identifying Petitioners' TAO LAS VEGAS venues and services. For example, the Petitioners' large Las Vegas billboard was featured in advertising the Las Vegas Style Promotion Party of the Year on Labor Day, 2010 at TAO® LAS VEGAS featuring famous MTV D.J. Erick Morillo (*see, e.g.,* <http://www.erickmorillo.com/news/archives/1664>). Petitioners' use of

this mark has been continuous and was exclusive for almost four years until Respondent's unauthorized and confusing use of the identical mark to advertise Respondent's adult entertainment "gentlemen's club" and nightclub also located in Las Vegas.

8. Petitioners have exceedingly valuable goodwill established in their mark built up through substantial amounts of time, effort and expense in advertising, promotion, and sales. Since November 2006, Petitioners have expended over \$1.2 million in use and advertising of their mark, including on huge billboards, often 14 feet by 48 feet in size. These billboards have been located for months and in some cases years at multiple locations along major thoroughfares in the Las Vegas area, as well as on posters and on the Internet. An actual photograph and billing invoice showing Petitioners' billboard use of its trademark ALWAYS A HAPPY ENDING in November, 2006, is annexed hereto as Exhibit A.

9. Petitioners have achieved great success in connection with their trademark, with millions of dollars in annual revenue and serving millions of guests. Unsolicited media coverage has hailed Petitioners' restaurant, nightclub and beach club at TAO LAS VEGAS with favorable nationwide acclaim. The *New York Times* reported in 2007 that TAO LAS VEGAS was then "the highest grossing independent restaurant in the United States, according to Restaurants & Institutions Magazine" with \$55.2 million in revenue and Petitioners expended over \$3 million in annual advertising and marketing. Petitioners' business is successful and growing. In 2010, TAO LAS VEGAS had reported annual revenues of over \$56 million.

10. For many years, since long prior to Respondent's trademark application and commencement of use of its identical mark, Petitioners have expended considerable

effort and expense promoting their ALWAYS A HAPPY ENDING trademark and the quality dining and nightclub services offered under such mark. As a result, the purchasing public has come to know, rely on, and recognize the mark ALWAYS A HAPPY ENDING as indicating a single source of high quality restaurant, nightclub entertainment services offered by Petitioners.

11. By reason of the foregoing, the Petitioners' trademark ALWAYS A HAPPY ENDING used in interstate commerce has come to enjoy a favored reputation and to create recognition of Petitioners' services at TAO LAS VEGAS and has obtained a secondary and distinctive meaning to identify Petitioners as the sole source of restaurant and nightclub services promoted and provided under that mark, and to distinguish Petitioners' services from the services of others.

12. Based on the foregoing many years of widespread and conspicuous advertising of Petitioners' mark, the officers and employees of Respondent LFP had actual knowledge of Petitioners' prior and successful use of Petitioners' mark ALWAYS A HAPPY ENDING with priority, in the same city as Respondent's planned "gentlemen's" club.

Respondent's Registration

13. Respondent filed its intent-to-use application on August 10, 2010 to register the mark ALWAYS A HAPPY ENDING under Serial No. 85103795 for services in class 041 specified as "adult entertainment services in the nature of adult nightclubs and cabarets." Said application was published for opposition in the Trademark Official Gazette on February 8, 2011. Notice of Allowance issued April 5, 2011. On April 5, 2011, Respondent immediately filed a statement of use claiming first use and first use in

commerce on October 26, 2010. With its Statement of Use, Respondent filed a specimen claiming use of ALWAYS A HAPPY ENDING on an advertisement for the “Grand Opening” of its “Gentlemen’s Club in Las Vegas.” A copy of this specimen from the official USPTO TDR record is annexed hereto as Exhibit B. Respondent’s Registration No. 3,967,963 issued May 24, 2011 and a true copy is annexed hereto as Exhibit C.

Priority, Standing, and Likelihood of Confusion

14. By reason of the foregoing, Petitioners therefore have long priority, through their date of first use of the mark ALWAYS A HAPPY ENDING, for many years before Registrant’s date of application and use.

15. If the Respondent is permitted to retain the registration sought to be cancelled, and thereby, the apparent *prima facie* right to use in commerce, as of the registration date, the mark ALWAYS A HAPPY ENDING in connection with its services, which are similar and related to the services offered by Petitioners, confusion is likely to result to the detriment of Petitioners. Therefore, Petitioners have a reasonable belief of damage from said registration and have a real interest in, and a direct and personal stake in the outcome of, this proceeding to cancel Respondent’s registration.

16. In view of the identity of the respective marks and the similar and related nature of the services of the respective parties, Respondent’s registered mark so resembles Petitioners’ mark, previously and continuously used in interstate commerce, as to be likely to cause confusion, to cause mistake, or to deceive.

17. The parties’ respective services are similar and related and the circumstances surrounding their marketing to consumers and purchasers who desire such services are such that they would or could likely be encountered by the same persons

under identical marks, leading to the false suggestion or mistaken belief that Registrant's services originate from or are endorsed, sponsored or in some way associated or connected with Petitioners. Accordingly, such registration by Respondent should be cancelled under § 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

18. For the foregoing reasons, if the Registrant is permitted to retain the registration sought to be cancelled, and thereby, the *prima facie* right to use in commerce the mark ALWAYS A HAPPY ENDING, Petitioners, having prior use of and superior rights in the mark, will be damaged.

Registrant's Fraud in Application and Registration

19. Petitioners repeat and reallege the allegations of paragraphs 1 through 18 of this Petition as if set forth in full herein.

20. As hereinabove alleged, at the time of Respondent's application, Petitioners were in fact long prior users of the exact same trademark as applied for by Respondent for similar and related services. Such prior use was well known for years and particularly in Las Vegas, where Respondent's nightclub was later opened. Petitioners therefore were prior users with rights in the mark superior to Respondent.

21. In view of Petitioners' long prior and widespread use and advertising of its mark, including on huge billboards throughout Las Vegas, Nevada, where Respondent later commenced use, Respondent adopted the identical mark and filed the within application for its mark with actual knowledge of Petitioners' prior use of the mark in connection with Petitioners' TAO LAS VEGAS nightclub, restaurant and beach club in the same city as Respondent's nightclub.

22. By reason of the foregoing, Respondent at the time of its declaration and application for the subject mark years after Petitioners' first use (a) knew of Petitioners' use of the same mark; and (b) knew that a prior user had legal rights in the mark superior to Respondent's; and (c) either believed and intended that a likelihood of confusion would result from Respondent's use of its mark or had no reasonable basis for believing otherwise; and (d) failed to disclose these facts to the USPTO in order to obtain a registration to which Respondent was not entitled.

23. In accordance with applicable law and USPTO rules, Respondent's application required Respondent by its officer or attorney to sign, and Respondent's attorney, Jonathan W. Brown, did sign and submit to the USPTO, on the public record, the following declaration on August 10, 2010:

Declaration:

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

A true copy of this declaration as filed with the USPTO is annexed hereto as

Exhibit D.

24. In Respondent's application, the aforesaid statement was false and fraudulent and was known by the Respondent and its attorney, Jonathan W. Brown, to be false and fraudulent in that the Respondent had actual knowledge that others, namely TAO LAS VEGAS restaurant and nightclub operated by Petitioners, had for many years earlier and continuously used the mark ALWAYS A HAPPY ENDING in connection with their TAO LAS VEGAS venues in Las Vegas, Nevada and thus had priority of trademark use and superior legal rights in the mark. As a matter of law, Respondent's knowledge is deemed knowledge by its attorney Jonathan W. Brown. Therefore, the application by Respondent for the same trademark for similar and related services sought registration of a trademark for which Respondent knew that the required declaration as submitted to the USPTO was false, in that a prior user had superior legal rights and there was a likelihood of confusion.

25. Further, said application and declaration failed to disclose the aforesaid facts and were submitted to the USPTO by the Respondent intending that the USPTO rely on said application and declaration. Respondent, in failing to disclose to the USPTO Petitioners' known prior use and superior legal rights, intended to procure a trademark registration to which Respondent was not entitled.

26. Thereafter, the USPTO conducted its own search of registered and filed pending trademarks and did not find Petitioners' trademark, because it had not yet been filed or registered with the USPTO. The USPTO therefore relied on the aforesaid application and declaration as submitted by Respondent that there were no prior similar trademarks in use with which applicant's mark was likely to cause confusion, as required under 15 U.S.C. § 1052(d). In reasonable reliance on the false declaration of

Respondent, the USPTO approved the application for publication and allowed the application.

27. Thereafter, on April 5, 2011, Respondent further submitted to the USPTO a Statement of Use in furtherance of Respondent's seeking registration of the mark ALWAYS A HAPPY ENDING. As part of this Statement of Use, Respondent again submitted a declaration with the same recitations as to warnings against willful false statements, stating, *inter alia*, that the signatory "believes the applicant to be the owner of the trademark/service mark sought to be registered" and that such statements were true. Said declaration was signed April 5, 2011 by Jonathan W. Brown on behalf of Applicant LFP. As hereinabove alleged, Respondent and hence Jonathan W. Brown as its attorney, had actual knowledge on April 5, 2011 that Applicant LFP was not "the owner" of the mark sought to be registered in that said mark was previously used and owned by others, namely Petitioners, with legal rights superior to Respondent. Accordingly, Respondent did not in fact believe it was the "owner of the mark" and entitled to registration at the time of its submission of the Statement of Use and its submission and supporting declaration to the USPTO were false and fraudulent.

28. Respondent's Statement of Use and supporting declaration again failed to disclose these facts to the USPTO and again intended to procure a registration to which Respondent was not entitled.

29. The USPTO reasonably relied on said Statement of Use and Respondent's declaration as being truthful and issued to Respondent LFP the subject Registration No. 3,967,963 on May 24, 2011.

30. The USPTO's reliance on Respondent's knowingly false declarations as aforesaid thereby caused injury to Petitioners, who have superior legal rights in the same mark as later applied for by Respondent.

31. By reason of the foregoing, the aforesaid registration should be cancelled by the TTAB as fraudulently filed, fraudulently prosecuted, and the Notice of Allowance and subsequent registration fraudulently obtained.

WHEREFORE, Petitioners allege that they are and will be damaged by Registration No. 3,967,963, and pray that this Petition for Cancellation of Registration No. 3,967,963 be granted in favor of Petitioners.

SCHWARTZ & THOMASHOWER LLP

Dated: June 28, 2010
New York, New York

By: /William Thomashower/
William Thomashower
Rachel Schwartz
Carla E. Sereny

15 Maiden Lane, Suite 705
New York, New York 10038
(212) 227-4300

Attorneys for Petitioners,
BUDDHA ENTERTAINMENT LLC, and
ASIA LAS VEGAS LLC

In the matter of: Registration No. 3,967,963, Date of Issue: May 24, 2011
PETITION FOR CANCELLATION

Exhibit A



Location List

Advertiser: TAO Nightclub

Agency: Buddha Entertainment LLC

Account Exec: Brian Wheeler

Sales Office: Clear Channel Las Vegas

Market: Las Vegas

Design List (Qty/Design): 1 / TAO-Always A Happy Ending

Contract: 800505278

Product Type: Bulletin

Population: 1,256,024

Total DEC: 66.4

Showing Days: 60

Program Start: 11/6/2006

Program End: 1/4/2007

	LOC. NO.	DESCRIPTION	DEC	ILL	FAC	DESIGN	Posted
1	067032	Tropicana NS 650ft E/O Koval F/W - 2	66.415	Y	W	TAO-Always A Happy Ending	11/7/2006



Performance Report

Clear Channel Las Vegas

Date: 11/14/2006
Advertiser: TAO Nightclub

Agency: Buddha Entertainment LLC
CCO Contract: 800505278
Client Contract:
Account Exec: Brian Wheeler

Product Type: Bulletin
 (Perm. Bulletin)

Report To: Mark Packer
 Buddha Entertainment LLC
 888 7th Ave Ste 3402
 New York, NY 10106
 USA

Vinyl Received: 11/6/2006
Quantity Received: 1
Program Start Date: 11/6/2006
Number Of Units: 1

Plant Avg. Daily Effective Circulation:
 Bulletin : 47,300

Member of the Traffic Audit Bureau:
 Last Audit 01/01/2006



The information in this report is according to Clear Channel Outdoor records and complies with the American Association of Advertising Agencies' completion report standards. If you need any additional information regarding the execution of this contract, please contact your representative. We appreciate your business and hope our service to you is satisfactory.

Location	Description	FAC	DEC
067032	Tropicana NS 650ft E/O Koval F/W - 2	W	66.415
Design	TAO-Always A Happy Ending	Completion Date: 11/7/2006	Size 14 x 48

Signature *Brian M. Wheeler*

Clear Channel Photographic Service Policy: Within 5 business days of the completion of the initial posting or any copy changes, Clear Channel will provide unaltered 1 close-up and 1 approach photo for each permanent bulletin, wallscape, or premiere product location. Clear Channel will provide unaltered 1 close-up and 1 approach photo for each start location for rotary bulletins. Clear Channel will not photo each rotation cycle unless copy changes. Clear Channel will provide 1 unaltered close-up photo for each poster/transit shelter/other format campaign design. Print sizes provided will either be 3"x5" or 4"x6". Additional photography requests will be billed to the advertiser. Service Charges: Location Photography \$15 ea.; Slide Transparency \$14 ea.; Prints: 8"x10" at \$18 ea.; 5"x7" at \$14 ea.; 4"x6" at \$1.25 ea.; 3"x5" at \$1 ea. Attached is a detailed list of all locations posted for this campaign including actual date of installation and design of each location.

Clear Channel Las Vegas - 2880 B Meade Avenue, Suite 350, Las Vegas, NV 89102
 Tel.(702) 382-5020 Fax.(702) 739-0881 Clearchanneloutdoor.com A Clear Channel Worldwide Company



Performance Report

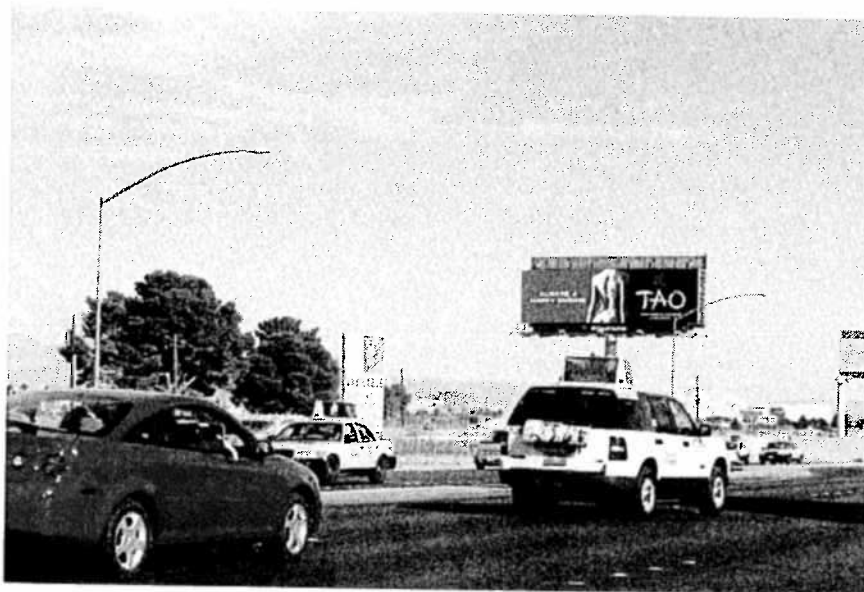
Clear Channel Las Vegas

Date: 11/14/2006
Advertiser: TAO Nightclub
Product Type: Bulletin
 (Perm. Bulletin)
Report To: Mark Packer
 Buddha Entertainment LLC
 888 7th Ave Ste 3402
 New York, NY 10106
 USA

Agency: Buddha Entertainment LLC
CCO Contract: 800505278
Client Contract:
Account Exec: Brian Wheeler

Vinyl Received: 11/6/2006
Quantity Received: 1
Program Start Date: 11/6/2006
Number Of Units: 1

Plant Avg. Daily Effective Circulation :
 Bulletin : 47,300
 Member of the Traffic Audit Bureau
 Last Audit 01/01/2006



The information in this report is according to Clear Channel Outdoor records and complies with the American Association of Advertising Agencies' completion report standards. If you need any additional information regarding the execution of this contract, please contact your representative. We appreciate your business and hope our service to you is satisfactory.

Location	Description	FAC	DEC
067032	Tropicana NS 650ft E/O Koval F/W - 2	W	66.415
Design	TAO-Always A Happy Ending	Completion Date: 11/7/2006	Size 14 x 48

Signature

Brian M. Wheeler

Clear Channel Photographic Service Policy: Within 5 business days of the completion of the initial posting or any copy changes, Clear Channel will provide unaltered 1 close-up and 1 approach photo for each permanent bulletin, wallscape, or premiere product location. Clear Channel will provide unaltered 1 close-up and 1 approach photo for each start location for rotary bulletins. Clear Channel will not photo each rotation cycle unless copy changes. Clear Channel will provide 1 unaltered close-up photo for each poster/transit shelter/other format campaign design. Print sizes provided will either be 3"x5" or 4"x6". Additional photography requests will be billed to the advertiser. Service Charges: Location Photography \$15 ea.; Slide Transparency \$14 ea.; Prints: 8"x10" at \$18 ea.; 5"x7" at \$14 ea.; 4"x6" at \$1.25 ea.; 3"x5" at \$1 ea. Attached is a detailed list of all locations posted for this campaign including actual date of installation and design of each location.

Clear Channel Las Vegas - 2880 B Meade Avenue, Suite 350, Las Vegas, NV 89102
 Tel.(702) 382-5020 Fax.(702) 739-0881 Clearchanneloutdoor.com A Clear Channel Worldwide Company

In the matter of: Registration No. 3,967,963, Date of Issue: May 24, 2011
PETITION FOR CANCELLATION

Exhibit B



LARRY FLYNT'S HUSTLER CLUB

ALWAYS A HAPPY ENDING™

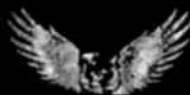
LOCATIONS WORLD WIDE

HUSTLERCLUBS.COM

NEW YORK, NY
BALTIMORE, MD
DETROIT, MI
CLEVELAND, OH
ST. LOUIS, MO
NEW ORLEANS, LA
SLITREVEPORT, LA

LAS VEGAS, NV
SAN FRANCISCO, CA
SAN DIEGO, CA

CROYDEN, UK
PARIS, FRANCE



MOST LUXURIOUS GENTLEMEN'S CLUB IN LAS VEGAS

LAS VEGAS

GRAND OPENING

70,000 SQUARED FEET

MEGA CLUB

In the matter of: Registration No. 3,967,963, Date of Issue: May 24, 2011
PETITION FOR CANCELLATION

Exhibit C

United States of America

United States Patent and Trademark Office

ALWAYS A HAPPY ENDING

Reg. No. 3,967,963

Registered May 24, 2011

Int. Cl.: 41

SERVICE MARK

PRINCIPAL REGISTER

LFP IP, LLC (DELAWARE LIMITED LIABILITY COMPANY)
SUITE 900
8484 WILSHIRE BOULEVARD
BEVERLY HILLS, CA 90211

FOR: ADULT ENTERTAINMENT SERVICES IN THE NATURE OF ADULT NIGHTCLUBS
AND CABARETS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 10-26-2010; IN COMMERCE 10-26-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-103,795, FILED 8-10-2010.

BARBARA A. GOLD, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

In the matter of: Registration No. 3,967,963, Date of Issue: May 24, 2011
PETITION FOR CANCELLATION

Exhibit D

**Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

MARK: ALWAYS A HAPPY ENDING

SERIAL NUMBER: 85103795

The applicant, LFP IP, LLC, having an address of
Suite 900

8484 Wilshire Boulevard

Beverly Hills, California 90211

United States

is submitting the following allegation of use information:

For International Class 041:

Current identification: Adult entertainment services in the nature of adult nightclubs and cabarets

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 10/26/2010, and first used in commerce at least as early as 10/26/2010, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Advertisement.

Original PDF file:

SPN0-631386041-131734215 . ALWAYS A HAPPY ENDING.pdf

Converted PDF file(s) (1 page)

Specimen File1

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

Declaration

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section

1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jonathan W. Brown/ Date Signed: 04/05/2011
Signatory's Name: Jonathan W. Brown
Signatory's Position: Attorney of record, New York Bar Member

RAM Sale Number: 9972
RAM Accounting Date: 04/05/2011

Serial Number: 85103795
Internet Transmission Date: Tue Apr 05 13:38:24 EDT 2011
TEAS Stamp: USPTO/SOU-63.138.60.41-20110405133824589
403-85103795-480c1ceebe0daff1dc1f262d773
523756f-CC-9972-20110405131734215270

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BUDDHA ENTERTAINMENT LLC,
ASIA LAS VEGAS LLC,

Petitioners,

– against –

LFP IP, LLC,

Respondent.

Cancellation No. _____

In the matter of:

Registration No. 3,967,963

Date of Issue: May 24, 2011

CERTIFICATE OF SERVICE

I am over 18 years of age and am not a party to this action. I hereby certify that on June 28, 2011 I served the foregoing:

PETITION FOR CANCELLATION

by depositing a true copy of same with the U.S. Postal Service for collection, with first-class postage fully pre-paid thereon, deposited on June 28, 2011 in a box maintained by the U.S. Postal Service, addressed to the Registrant as follows:

LFP IP, LLC
8484 Wilshire Blvd.
Suite 700
Beverly Hills, CA 90211

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed by me this June 28, 2011 at New York, New York.



William Thomashower